

Proposed Trailer Bill Language

FLT #408 - California Earned Income Tax Credit

SEC. 1. Section 17052 is added to the Revenue and Taxation Code, to read:

17052. (a)(1) For each taxable year beginning on or after January 1, 2015, there shall be allowed against the “net tax,” as defined by Section 17039, an earned income tax credit in an amount equal to an amount determined in accordance with Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal income tax purposes for the taxable year, except as otherwise provided in this section.

(2)(A) The amount of the credit determined under section 32 of the Internal Revenue Code, relating to earned income, as modified by this section, shall be multiplied by the Earned Income Tax Credit adjustment factor for the taxable year.

(B) Unless otherwise specified in the annual budget act, the Earned Income Tax Credit adjustment factor for a taxable year beginning on or after January 1, 2015, shall be zero percent (0%).

(C) The Earned Income Tax Credit authorized by this section shall only be implemented for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit.

(b)(1) In lieu of the table prescribed in Section 32(b)(1)(A) of the Internal Revenue Code, relating to percentages, the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	7.65%	7.65%
1 qualifying child	34%	34%
2 or more qualifying children	40%	40%

(2)(A) In lieu of the table prescribed in Section 32(b)(2)(A) of the Internal Revenue Code, the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	\$ 3,290	\$ 3,290
1 qualifying child	\$ 4,940	\$ 4,940
2 or more qualifying children	\$ 6,935	\$ 6,935

(B) Section 32(b)(2)(B) of the Internal Revenue Code, relating to joint returns, shall not apply.

(3) Section 32(b)(3)(A) of the Internal Revenue Code, relating to increased percentage for 3 or more qualifying children, is modified by substituting “the credit percentage and phaseout percentage is 45 percent” for “the credit percentage is 45 percent”.

(c)(1) Section 32(c)(1)(A)(ii)(I) of the Internal Revenue Code is modified by substituting “this state” for “the United States”.

(2) Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

(A) Section 32(c)(2)(A)(i) is modified by deleting “plus” and inserting in lieu thereof the following: “and only if such amounts are subject to withholding pursuant to Division 6 (commencing with section 13000) of the Unemployment Insurance Code”).

(B) Section 32(c)(2)(A)(ii) shall not apply.

(3) Section 32(c)(3)(C) of the Internal Revenue Code, relating to place of abode, is modified by substituting “this state” for “the United States”.

(d) Section 32(i)(1) of the Internal Revenue Code is modified by substituting “\$3,400” for “\$2,200”.

(e) In lieu of Section 32(j) of the Internal Revenue Code, relating to inflation adjustments, for taxable years beginning on or after January 1, 2016, the amounts specified in paragraph (2) of subdivision (b) and in subdivision (d) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(f) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(g) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(h) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of

determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(i)(1) For the purpose of implementing the Earned Income Tax Credit pursuant to this section for the 2015 tax year, the Franchise Tax Board shall be exempt from the following:

(A) Special Project Report requirements under State Administrative Manual Sections 4819.36, 4945, and 4945.2.

(B) Special Project Report requirements under Statewide Information Management Manual Section 30.

(C) Section 11.00 of the 2015 Budget Act.

(D) Public Contract Code Sections 12101, 12101.5, and 12102, and 12102.1.

(2) The Franchise Tax Board shall formally incorporate the scope, costs, and schedule changes associated with the implementation of the Earned Income Tax Credit pursuant to this section in its next anticipated Special Project Report for its Enterprise Data to Revenue project.

(j) This section is notwithstanding Section 41.

SEC. 2. Section 19136 of the Revenue and Taxation Code is amended to read:

19136.

(a) Section 6654 of the Internal Revenue Code, relating to failure by an individual to pay estimated income tax, shall apply, except as otherwise provided.

(b) Section 6654(a)(1) of the Internal Revenue Code is modified to refer to the rate determined under Section 19521 in lieu of Section 6621 of the Internal Revenue Code.

(c) (1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, does not apply.

(2) No addition to the tax shall be imposed under this section if the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than five hundred dollars (\$500), except in the case of a separate return filed by a married person the amount shall be less than two hundred fifty dollars (\$250).

(d) Section 6654(f) of the Internal Revenue Code does not apply and for purposes of this section the term "tax" means the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.

(e) (1) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, is the credit allowed under subdivision (a) of Section 19002.

(2) (A) Section 6654(g)(1) of the Internal Revenue Code is modified by substituting the phrase “the applicable percentage” for the phrase “an equal part.”

(B) For purposes of this paragraph, “applicable percentage” means the percentage amount prescribed under Section 6654(d)(1)(A) of the Internal Revenue Code, as modified by subdivision (a) of Section 19136.1.

(f) This section applies to a nonresident individual.

(g) (1) No addition to tax shall be imposed under this section to the extent that the underpayment was created or increased by either of the following:

(A) Any ~~any~~ law that is chaptered during and operative for the taxable year of the underpayment.

(B) If, for a taxable year prior to its repeal, the applicable percentage for the credit authorized by Section 17052 for the taxable year was less than the applicable percentage for that credit for the preceding taxable year.

(2)(A) Notwithstanding Section 18415, subparagraph (A) of paragraph (1) of this section ~~subdivision~~ applies to penalties imposed under this section on and after January 1, 2005.

(B) Notwithstanding Section 18415, subparagraph (B) of paragraph (1) of this subdivision applies to penalties imposed under this section on or after January 1, 2016.

(h) The amendments made to this section by Section 5 of Chapter 305 of the Statutes of 2008 apply to taxable years beginning on or after January 1, 2009.

(i) The amendments made to this section by Section 3 of Chapter 15 of the Statutes of 2009, 4th Extra. Sess., ~~the act adding this subdivision~~ apply to amounts withheld on wages beginning on or after January 1, 2009.

SEC. 3. Section 19167 of the Revenue and Taxation Code is amended to read:

19167.

A penalty shall be imposed under this section for any of the following:

(a) In accordance with Section 6695(a) of the Internal Revenue Code, for failure to furnish a copy of the return to the taxpayer, as required by Section 18625.

(b) In accordance with Section 6695(c) of the Internal Revenue Code, for failure to furnish an identifying number, as required by Section 18624.

(c) In accordance with Section 6695(d) of the Internal Revenue Code, for failure to retain a copy or list, as required by Section 18625 or for failure to retain an electronic filing declaration, as required by Section 18621.5.

(d) Failure to register as a tax preparer with the California Tax Education Council, as required by Section 22253 of the Business and Professions Code, unless it is shown that the failure was due to reasonable cause and not due to willful neglect.

(1) The amount of the penalty under this subdivision for the first failure to register is two thousand five hundred dollars (\$2,500). This penalty shall be waived if proof of registration is provided to the Franchise Tax Board within 90 days from the date notice of the penalty is mailed to the tax preparer.

(2) The amount of the penalty under this subdivision for a failure to register, other than the first failure to register, is five thousand dollars (\$5,000).

(e) The Franchise Tax Board shall not impose the penalties authorized by subdivision (d) until either one of the following has occurred:

(1) Commencing January 1, 2006, and continuing each year thereafter, there is an appropriation in the Franchise Tax Board's annual budget to fund the costs associated with the penalty authorized by subdivision (d).

(2) (A) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that an amount equal to all first year costs associated with the penalty authorized by subdivision (d) shall be received by the Franchise Tax Board. For purposes of this subparagraph, first year costs include, but are not limited to, costs associated with the development of processes or systems changes, if necessary, and labor.

(B) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that the annual costs incurred by the Franchise Tax Board associated with the penalty authorized by subdivision (d) shall be reimbursed by the California Tax Education Council to the Franchise Tax Board.

(C) Pursuant to the agreement described in subparagraph (A), the Franchise Tax Board has received an amount equal to the first year costs described in that subparagraph.

(f) In accordance with Section 6695(g) of the Internal Revenue Code, for failure to be diligent in determining eligibility for earned income credit for returns required to be filed on or after the effective date adding this subdivision.

SEC. 4. This section is placeholder for language required by Section 41 of the Revenue and Tax Code to specify the goals, purposes, and objectives that the tax credit will achieve along with indicators and data collected to measure whether the tax credit implemented by this Act achieves the intended purpose.